

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Tony Hammond, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Competitive Product Prices
ADP 1 (MC2017-82)
Negotiated Service Agreements

Docket No. CP2018-177

ORDER APPROVING ADDITIONAL ADP 1
NEGOTIATED SERVICE AGREEMENT

(Issued March 14, 2018)

I. INTRODUCTION

The Postal Service seeks to include an additional Alternative Delivery Provider 1 (ADP 1) agreement (Agreement) within the ADP 1 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Alternative Delivery Provider 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, March 5, 2018 (Notice).

II. BACKGROUND

Agreements under the ADP 1 product allow customers to ship packages to specified destination countries using a combination of the Postal Service and Postal Service delivery agent(s).

On March 5, 2018, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the ADP 1 product and requests that the Agreement be added to the existing ADP 1 product. Notice at 2. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the ADP 1 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Postal Service will establish the effective date of the agreement after the Commission completes its review. Notice at 3. If the effective date of the Agreement is the first of the month, the Agreement will expire one year after the effective date; otherwise, the Agreement will expire on the last day of the month one year after the effective date. *Id.*

On March 6, 2018, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

² See Docket No. CP2018-176, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, March 6, 2018.

III. COMMENTS

The Public Representative filed comments on March 13, 2018.³ No other comments were received.

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement and should generate sufficient revenue to cover costs. PR Comments at 2. He states that the Agreement features similar cost and market characteristics to the baseline agreement. *Id.* at 3. He further states that because the financial model indicates that the Agreement will cover its attributable costs, the addition of the Agreement to the ADP 1 product should not cause the product's cost coverage to fall below 100 percent. *See id.*

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the ADP 1 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 3793, the Commission added the ADP 1 product to the competitive product list and designated a baseline agreement for assessing the functional equivalence of other agreements proposed for inclusion within the ADP 1 product.⁴

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement and requests that the Agreement be included within the ADP 1 product. Notice at 2. It asserts that the Agreement fits within the Mail Classification Schedule language for the ADP 1 product. *Id.* The Postal

³ Public Representative Comments on Postal Service Notice Concerning an Additional Alternative Delivery Provider 1 Negotiated Service Agreement, March 13, 2018 (PR Comments).

⁴ Docket Nos. MC2017-82 and CP2017-111, Order Adding Alternative Delivery Provider 1 to the Competitive Product List and Designating Baseline Agreement, February 16, 2017 (Order No. 3793).

Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms but states that prices may differ. *Id.* at 4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁵

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the ADP 1 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its

⁵ Differences include, among others, revisions to existing articles and the inclusion of new articles. *Id.* at 4-5.

attributable costs. Consequently, the Commission finds that the addition of the Agreement to the ADP 1 product should allow the product to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the ADP 1 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the ADP 1 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the ADP 1 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service will establish the effective date of the agreement after the Commission completes its review. Notice at 3. The Postal Service shall promptly notify the Commission of the effective date of the Agreement. If the effective date of the Agreement is the first of the month, the Agreement will expire one year after the effective date; otherwise, the Agreement will expire on the last day of the month one year after the effective date. *Id.*

If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2018-177 is included within the ADP 1 (MC2017-82) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.13 Alternative Delivery Provider (ADP) Contracts

2510.13.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- ADP 1
 - Baseline Reference*
 - Docket No. MC2017-82 and CP2017-111
 - PRC Order No. 3793, February 16, 2017
 - Included Agreements*
 - CP2018-177, expires TBD
